

STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION

Rhonda Schilling,	:	
-vs-	:	09-0331
Commonwealth Edison Company	:	
	:	
Complaint as to billing in Manhattan, Illinois.:		

PROPOSED ORDER

By the Commission:

On July 20, 2009, Rhonda Schilling filed a Complaint, in which, she contested the propriety of electric bills issued by the Commonwealth Edison Company (“ComEd”). Specifically, she contested the propriety of her electric bills from November of 2008 through March of 2009 in the total amount of \$2,591.56, plus interest on that amount that she alleged was in the amount of \$640.00.

For the reasons stated below, we conclude that Ms. Schilling has met her burden of proof and that ComEd failed present credible evidence refuting Ms. Schilling’s evidence. However, as is set forth herein, because Ms. Schilling’s actual electric bills, during the relevant time period, cannot be determined with certainty, the amount determined regarding actual usage is an estimate, based upon Ms. Schilling’s evidence of actual usage in previous years. And, as is set forth below, the amount of interest due here is set by regulation, and, it is far less than \$640.00.

This matter came before a duly authorized Administrative Law Judge (an “ALJ”) for an evidentiary hearing on November 23, 2009. Ms. Schilling appeared *pro se* and ComEd was represented by counsel. Testifying on behalf of Ms. Schilling were Ms. Schilling and Mr. Schilling, her husband. Also testifying on behalf of Ms. Schilling was Mr. Kemp, a former ComEd employee and friend of the Schillings. Testifying on behalf of ComEd was Raymond Ceja, a ComEd meterman; Roger Mort, a supervisor for field meter services for ComEd; and, Charisse Marsaw, a business analyst for ComEd.

Background

The Schilling residence was built some time in the 1920’s, but, it has been remodeled on more than one occasion. (Tr. 23). The house is approximately 3,000 square feet in size. (Tr. 33). It has a gas furnace. Ms. Schilling testified that, in 2005, the Schillings bought a more energy-efficient gas furnace. The Schillings bought all brand-new energy efficient appliances in 2002, when they moved in to this house, including the stove, the clothes dryer, and the dishwasher. They also bought a wood-

burning fireplace. (*Id.*). This house is a wood-frame house and it has are two and a half stories. Most of the house is on the main floor, including the master bedroom, the family room, the dining room, the living room, the kitchen, the laundry room, and the office. Ms. Schilling's two daughters have two bedrooms on the second floor upstairs, with a bath. There is also another bedroom on the second floor, which is used as an office. There is also an attic. (Tr. 40).

The Schilling residence has no basement. However, it has a crawlspace that is approximately two feet deep. (*Id.* at 58). It has an electric water heater (45 gallons) that was purchased in October of 2007. (Tr. 60). Four people live in the Schilling residence; however all four persons work. (Tr. 33; 56).

Ms. Schilling testified that on August 23, 2007, a tornado damaged the electric transformer that was across the street from the Schilling residence. Some time thereafter, ComEd installed a new transformer. (Tr. 26-27; 42). This second transformer, however, "blew up" on September 24, 2007, causing the Schilling's stove to catch on fire. That fire endangered the Schilling family. Also, after this second transformer "blew up," the Schilling household was totally without electricity. (Tr. 26-27).

ComEd repaired the Schillings' stove, but, it took a month before anyone from ComEd to come out and repair the stove. (*Id.* at 27). When Ms. Schilling spoke with ComEd representatives, about the damage to her stove, they told her that the problem came from inside the house. As a result, Ms. Schilling hired a certified electrician who checked the viability of all of the wiring in the home and said that the house was fine and the problem was on ComEd's side (external). (Tr. 25-28; 42; 44; 54). ComEd representatives insisted that the problem was located in internal wiring, so, Ms. Schilling had the electrician come out again. The electrician again concluded that the problem was external. (Tr. 44). Ms. Schilling averred that, once ComEd replaced the transformer, the surging of electricity that she had previously experienced in her house stopped, at least, temporarily. (Tr. 25-28).

Ms. Schilling also testified that her electric bills started "skyrocketing" in March of 2008. This was due to a faulty meter, which was internally "fried." (Tr. 21). She stated that, as a result, ComEd employees changed the meter in April of 2008. (*Id.*; See also, Pet. Ex. 3).

Ms. Schilling submitted bills from previous years in order to establish her general household usage pattern from November through March, which is, the time period in question. These bills were entered into evidence. The average bill for November of 2005 through March of 2006 was \$150.68. From November of 2006 through March of 2007, the average bill was \$182.90 per month and in November of 2007 through March of 2008, the average bill was \$156.94 per month. (Tr. 21; Group Ex. 3-5). ComEd presented no evidence indicating that this usage was atypical for the size of the Schilling house, with four persons living there.

The Complainant's Evidence Regarding the Time Period in Question- November of 2008 through March of 2009

Ms. Schilling entered into evidence her electric bills for the time period from November of 2008 through March of 2009. (Group Ex. 1). On average, they were \$618.31 per month. (Tr. 21). The total that ComEd charged for this five-month period was \$2,591.56. (Tr. 22). Additionally, according to Ms. Schilling, ComEd has charged her interest in the amount of \$640 on these bills. (Tr. 35). In March of 2009, Ms. Schilling entered into a deferred payment arrangement with ComEd. At that time, ComEd charged her a fee for entering into this arrangement. (Group Ex. 1).

Because her January of 2009 bill was very high, (\$583) Ms. Schilling called ComEd and requested that someone from ComEd come out to her residence. And, the February of 2009 electric bill was \$778. (Tr. 29). However, ComEd did not come out to the Schilling residence until May of 2009. At this time, according to Ms. Schilling, a new meter was installed. After the new meter was installed, the surging stopped and the Schillings' bills returned to normal (previous) amounts. (Tr. 29-30).

Mr. Schilling testified that on April 9, 2009, the Schillings' electric meter was spinning uncontrollably. The Schillings then unplugged every electrical appliance in the house, except the refrigerator. (Tr. 34). They did this because they were nervous. Mr. Schilling thought that if the meter was spinning so fast, either something was wrong with the house, and, it would catch on fire, or, there was something wrong with the meter. (Tr. 53). After everything was unplugged, the meter never stopped spinning. It was still spinning just as fast as it was with everything plugged in. (Tr. 60).

In Mr. Schilling's opinion, ComEd replaced the electric meter after the April 9, 2009, incident. He inspected the meter on May 18, 2009, and it looked brand-new. The glass on it was clean and there wasn't even a thumbprint on it. Mr. Schilling stated that there was something wrong with the electricity that the Schillings received in that four to five-month period from November of 2008 to April of 2009. (Tr. 55). Ms. Schilling took pictures of the meter. (Tr. 32).

Mr. Kemp is a retired ComEd employee. He was a maintenance mechanic for ComEd. As a maintenance mechanic, he took care of pumps, boilers, and buildings. (Tr. 50). Mr. Kemp, however, never inspected or tested meters. (Tr. 51). Mr. Kemp testified that he was also at the Schilling residence on April 9, 2009. (Tr. 49-50). He noticed that the dial on the electric meter to the Schilling house was moving very fast. It took five seconds for the dial to make a complete circle on the meter. (Tr. 50). When he got home, he checked his own electric meter. It took his meter 40 seconds to make a complete circle on the meter. (*Id.*).

The Evidence that ComEd Presented

Raymond Ceja testified that he has been a meterman with ComEd for 30 years. His job title is senior energy tech. (Tr. 63-64). One of his job functions is to tests meters. In order to be able to test meters, he took a one-week training class. (*Id.* at 64). However, during his 30-year tenure at ComEd, he has only tested 15 or 20 meters. (*Id.* at 65).

The first time Mr. Ceja came to the Schilling residence was in April of 2008. (Tr. 65-66). He was there on a high bill meter investigation. He inspected the wiring to make sure that the wiring going into the meter and out of the meter was "okay." What he observed was that some of the "surge clips" to the meter were burnt. (*Id.* at 66). Surge clips are stainless steel clips, that "blow" if there is a surge of lightning. The fact that the surge clips "blew," Mr. Ceja stated, is some evidence that a power surge had occurred. (*Id.* at 77). As a result of his findings, Mr. Ceja changed the Schillings' meter in April of 2008. (*Id.*). He did not examine the transformer across the street from the Schilling residence. He also testified that an "overhead" is the ComEd employee that examines transformers and the external wiring. (Tr. 78). On cross-examination, Mr. Ceja admitted that the original meter was never tested in April of 2008 in order to determine what was wrong with it. (*Id.* at 74).

At that time, Mr. Ceja testified that he entered the Schilling house, to speak with Ms. Schilling and to check the circuit breakers. According to Mr. Ceja, there were small space heater in the living room, hallway, and in a bedroom of the Schilling residence. He said that he observed a total of five small space heaters. (*Id.* at 71). However, there is no evidence that these space heaters were fuelled by electricity, or, even that they were on at this time (April of 2008). There also is no evidence that use of these small space heaters would result in a material increase in the Schillings' electric bills.

Mr. Ceja stated that he was again at the Schilling residence on June 3, 2009. He performed a field test at the Schilling residence at that time. He performed a high load usage test and a low load usage test. (Tr. 67-68). In performing these tests, he used a device called the "RM17." This device is one that is commonly used by ComEd employees to test residential meters for high and low loads. He also checked the meter seal wiring and performed a breaker check. (*Id.* at 68-69). He concluded that the meter was wired properly and that there was no foreign load on the Schillings' service. (*Id.* at 70).

The light load to the Schilling house was 99.73, and the heavy load was 100.37. Because these two loads were within ICC guidelines, Mr. Ceja testified that he did not change the meter on June 3, 2009. (Tr. 70).

Roger Mort testified that he is the supervisor for field meter services at ComEd. In that capacity, he supervises senior energy techs, energy techs, and, operating techs in the Southwest Region of ComEd's territory, which is, the general area of Bolingbrook, Joliet, Streator and Pontiac, Illinois. This area includes Manhatten, Illinois, which is where the Schilling residence is located. (Tr. 83). However, despite the fact that Mr.

Mort put forth what would appear to be an expert opinion, there is no evidence of record regarding Mr. Mort's training, expertise or general knowledge.

Mr. Mort testified that the acronym "OES" means "Overhead Electrician Special." He stated that ComEd Ex. 2 states that as of November 13, 2009, a dispatcher had an "OES."¹ This means that a customer had an issue, and "trouble men" are dispatched to the address of the customer. (Tr. 84). On ComEd Ex. 2, a "trouble man" was required to inspect the electrical lines from the pole to the house, in order to make sure that the service to that house was intact and that the connectivity was accurate. Also, the "trouble man" was required to test the voltage on those lines. (*Id.*).

According to Mr. Mort, ComEd Ex. 2 indicates that, as of November 13, 2009, the wires and connections from the electric pole to the Schilling house were tested and they were found to be "good" from "pole to pole." (Tr. 85). An inspection would ordinarily encompass looking at the various connections from pole to pole. (*Id.* at 86). Mr. Mort stated that there are generally two points of connection, one is at the transformer, and there are connections that are made from there to the wire itself, depending on the length of the wire and the size of the conductor. (*Id.*). Also, normally, at the home, there is another set of connections that go down to the meter, which is commonly referred to as the "line side." (*Id.* at 85-86) During a normal test, a ComEd employee would also take voltage readings off the transformer, to ensure that the voltage coming out of the "secondary bushings" are actually 120 voltage. (*Id.* at 86). However, there is no evidence that Mr. Mort has the expertise or background to actually state what a "trouble man" does.

Mr. Mort further averred that a transformer is nothing more than a "step-down" off of the high line, which is "12 Kv down to 120." Because the Schillings have 200 amp service, they needed three wires going from the transformer to the meter. (Tr. 87).

Mr. Mort stated that, if a transformer receives a surge, like, ones that occur due to lightning striking the wires, then, the surge brackets (on the meter) would act like a "meter fuse" to protect the home. (Tr. 87-88). Mr. Mort acknowledged that voltage fluctuations do happen within ComEd's system; however, he stated that the Schillings' meter would not speed up during a power surge. Instead, a meter normally gets stuck or, it stops, due to a surge. Mr. Mort did state that he was not saying that a meter could not speed up due to a surge, rather, "[I]n this case, I just don't see that." (Tr. 88).

Mr. Mort also testified that he had been "this whole summer around meters, you know, tens of thousands of them and I've never seen this." He concluded that, if a surge occurred at the transformer, this fact would have no effect on the meter's reading of electricity. (Tr. 88). On cross-examination, Mr. Mort testified that, if a meter detects a large surge, it has surge protectors on it to actually "blow," just like a fuse or a circuit

¹ The document, from which, Mr. Mort was reading was a running account of the situation at the Schilling residence as of November 13, 2009. (Tr. 95).

breaker. Meters have one “gear” on them that monitors load, and, they only “spin” if load comes through the meter. (Tr. 91-92).

Mr. Mort also acknowledged that malfunctioning transformers can cause surges and they can also cause “brown outs,” which is when a customer receives less than full voltage. (Tr. 92-93). However, when the “trouble men” were at the Schilling residence, they should have tested that, with the voltage to see if there was any “drop in there.” He concluded that therefore, at that time, this issue was checked. From the documents that he saw regarding what occurred in November of 2009, but, “not me physically standing there” he concluded that everything was “okay” at that time. Mr. Mort acknowledged, on cross-examination, that he had never been to the Schilling residence, and, therefore, he has no personal knowledge of what actually occurred on November 13, 2009. (*Id.* at 93).

Charisse Marsaw testified that she has been a business analyst for ComEd for two and a half years. In that capacity, she acts as a liaison between outside agencies where customers may file complaints, like, the ICC, the Citizens Utility Board, or the Better Business Bureau. After such a complaint has been filed, she acts as a company liaison to the customer in question. She inherited Ms. Schilling’s file after a co-worker retired. (Tr. 98-100).

As a business analyst, Ms. Marsaw has access to the Schillings’ electric account. According to ComEd’s records, May 13, 2008, is the first time when ComEd replaced the old meter with a new meter. The Schillings received no credit for any incorrect readings from the damaged meter. (Tr. 100; 105-06). In July of 2009, the Schillings defaulted on their deferred payment arrangement, causing their full bill to be applied. (*Id.*). Also, according to her reading of ComEd documents, on December 11, 2006, January 2, 2007 and April 28, 2008, the meter was being serviced and the end (meter) readings were zero. On those dates, the meter was changed and readings were taken on the meter. (Tr. 107-08; CE Exs. 3a; 3b; 4). Thus, according to ComEd’s records, the meter to the Schilling residence had been replaced four times within a relatively short period of time. And, any credits that the Schillings received were due to a damaged meter and the fact that Schilling got a new meter. These adjustments were not based on the fact that the meter was inaccurately reading the amount of electricity that the Schillings used. (Tr. 105).

Rebuttal Evidence

In rebuttal, Ms. Schilling testified that, in February of 2009, ComEd required her to defer \$102.46, on top of total current charges of \$778.01, making a total monthly bill of approximately \$880. (Tr. 114-15). As a result of the deferred payment arrangement, in March of 2009, the balance that was due, less, what Ms. Schilling paid, was \$1,590. (*Id.* at 115). The Schillings’ bill did not disclose the amount of interest that ComEd charged and Ms. Schilling testified that she was not informed, when entering into a deferred payment arrangement, that interest would be charged on the amount that was deferred. (Tr. 116-17).

Analysis and Conclusions

Section 8-252.1 of the Public Utilities Act requires that, when a customer pays a bill, and the billing is later found to be incorrect, due to an error, either in the charging more than the published rate, or, in measuring the quantity of volume of service provided, the utility shall refund the overcharge, with interest, from the date of overpayment, at the legal rate, or, at the rate prescribed by rule of this Commission. (220 ILCS 5/9-252.1). When a complaint has been filed with this Commission, the Complainant has the burden of proof to establish a utility's error, by the preponderance of the evidence. (5 ILCS 100/10-15). The term "preponderance of the evidence" has been defined by the Illinois courts as "more probably true than not." (*Holton v. Memorial Hospital*, 176 Ill. 2d 95, 105, 679 N.E.2d 1202 (1997); *Bazdlo v. Volant*, 164 Ill. 2d 207, 213, 647 N.E.2d 273 (1995)). We conclude that Ms. Schilling has met this burden and, that ComEd has not provided credible evidence to refute Ms. Schilling's evidence.

Ms. Schilling contests the propriety of her electric bills from November of 2008 through April of 2009. She contends that her very high bills during this time period were caused by power surges. She, as well as Mr. Schilling, and, Mr. Kemp all testified that the meter to the Schilling residence on April 9, 2009, was spinning at a very fast pace when the only electrical appliance that was not turned off was the Schillings' refrigerator. The Schillings are of the opinion that electricity was surging into the Schilling residence, which, essentially, caused the Schillings to receive more electricity than they used.

It is noteworthy that no one from ComEd really disputed the Schillings' assertion that power surges can occur. Mr. Ceja acknowledged that, when the Schillings' stove caught on fire, this was due to a power surge. (Tr. 77). And, it is true that Mr. Mort testified that, in his view, it was unlikely that the Schillings' meter would speed up during a power surge. (Tr. 88). However, he testified that: "I've never seen a meter speed up because of a surge. You know, (I'm) not saying it couldn't happen, but, in this case, I just don't see that." (Tr. 88). Mr. Mort's testimony was far from unequivocal. His testimony, therefore, does not establish that a meter could not speed up due to a surge.

According to ComEd's records, the meter to the Schilling residence was changed at least four times within a relatively short period of time. (See, Tr. 100; 105-06; CE Exs.3a;3b; 4). Yet, the testing that Mr. Ceja performed in June of 2009 indicates that the electric load from the Schilling residence was within ICC guidelines and, there was no foreign load (stealing of electricity). (Tr. 70).

Also, since August of 2007, the transformer that is located across the street from the Schilling residence was replaced twice. (Tr. 26-27; 42). And, it appears that, despite requests by Ms. Schilling, ComEd did not test any old meter, or test the electric lines until November of 2009.

Moreover, Mr. Mort was proffered for his expertise. An expert witness is a person whose, special knowledge, skill, experience, training or education is determined by the trier of fact to qualify to testify to an opinion, based upon the witness' experience, because that opinion will aid the trier of fact in resolving a question that is beyond the understanding or competence of persons of common experience. (*Gill v. Foster*, 232 Ill. App. 3d 767, 780, 597 N.E.2d 776 (4th Dist. 1992)). The degree of knowledge or expertise that is necessary to qualify a witness as an expert depends upon the complexity of the subject matter. (*People v. Hunley*, 313 Ill. App. 3d 16, 30, 728 N.E.2d 1183 (1st Dist. 2000)). The burden of establishing an expert's qualifications rests with the proponent of the testimony at issue. (*Gill*, 232 Ill. App. 3d at 781). If the expert's opinion is without the proper foundation, that opinion is of no weight and it must be disregarded. (*In re Petition to Disconnect Certain Territory from the Village of Campton Hills*, 386 Ill. App. 3d 355, 367, 899 N.E.2d 280 (2nd Dist. 2008)). Thus, it is error for a trier of fact to consider the opinion of a person who has been proffered as an expert, but, whose expertise has not been established. (*Hunley*, 313 Ill. App. 3d at 31-32).

Here, Mr. Mort testified that he supervises field meter services at ComEd. In that capacity, he supervises senior energy techs, energy techs and operating techs. (Tr. 84). But, there is no evidence that the person who came to the Schilling residence on November 13, 2009, held any one of those three job titles. (See, ComEd Ex. 2). There also is no evidence that Mr. Mort supervised persons at ComEd who had similar training or areas of expertise as his area of expertise, if he had such an area of expertise. Therefore, there is no evidence that Mr. Mort has the same expertise as the person who came to the Shillings' residence on November 13, 2009.

Of greatest significance is the fact that there is no evidence in the record establishing Mr. Mort's training or education. Therefore, there is no evidence that Mr. Mort has any area of expertise.

And, Mr. Mort testified that he had never been to the Schilling residence. It is also noteworthy that Mr. Mort admitted that he has no personal knowledge as to what actually happened when the ComEd employee came out to the Schilling residence in November of 2009. (Tr. 93). Therefore, Mr. Mort's statements cannot be used to establish what happened when someone came out to the Schilling residence on November 13, 2009. And, Mr. Ceja, a meterman with ComEd, testified that his job title is "senior energy tech." (Tr. 64-65). Mr. Mort supervises "senior energy techs." (Tr. 83). Yet, according to Mr. Ceja, "senior energy techs" are not qualified to examine the (external) electric lines to a meter. (Tr. 78). While it is possible that Mr. Mort supervises persons who *are* qualified to examine the external electric lines to a meter, the record in this docket does not indicate this fact. Therefore, there is no evidence indicating that Mr. Mort even supervised persons who perform the tests that were performed at the Schilling residence on November 13, 2009.

It is also noteworthy that Ms. Schilling's testimony that ComEd employees repaired her stove after September 27, 2007, is uncontroverted. ComEd employees repaired this stove after the second transformer that ComEd installed "blew up," causing a fire in

the stove and the Schilling residence to be without power. (Tr. 26-27). Presumably, ComEd employees repaired the stove because ComEd caused the damage to the stove. And, there is no evidence indicating that ComEd repaired the Schillings' stove for any other reason. If, as Mr. Mort testified, that, in the case of an electrical surge, the meter or the transformer would automatically shut down electric current to the Schilling residence, then, ComEd employees would not have repaired the Schillings' stove. This is true because any electrical surge would have been shut down by the meter, or, the transformer, and, therefore, there would have been no need for ComEd to repair the Schillings' stove.

The ALJ, who viewed the witnesses, and was therefore in the best position to determine their credibility, concludes that the three witnesses who testified, essentially, that the meter to the Schilling residence was spinning out of control, even after everything but the refrigerator was unplugged were credible. However, from an evidentiary perspective, Mr. Mort's opinion, stated above, (that it was unlikely that surges occurred) has little value, as there is no evidence that Mr. Mort had any expertise or knowledge that would make him qualified to render this expert opinion. The ALJ, who viewed the witnesses, also determined that Mr. Ceja and Mr. Mort are not credible witnesses. They did not appear to the ALJ to answer questions in a candid manner.

Even Mr. Ceja, a ComEd employee, testified that the fact that in April of 2008, the surge clips on the Schillings' meter "blew," and a power surge occurred, is evidence that there was a power surge at that time. (Tr. 77). Thus, there was a power surge to the Schilling residence on at least one occasion. Ms. Schilling's testimony, that of Mr. Schilling, and that of Mr. Kemp, that power surges occurred during the time period in question is unrebutted and unrefuted.

And, apparently, in June of 2009, Ms. Schilling asked Mr. Ceja to make an internal request within ComEd to send someone out to test the wires from the Schilling house to the transformer across the street. Even though there was obvious evidence that something was wrong (two transformers replaced and four meters replaced in a relatively short period of time) no one from ComEd came to the Schilling residence until November 13, 2009, which was ten days before the evidentiary hearing in this matter.

Even if Mr. Mort's statement were taken to be the standard in the industry, according to ComEd's records, within a relatively short time period, (December of 2006 through July of 2009, when Ms. Schilling filed her Complaint) the meter to the Schilling's house was changed at least four times, and, the transformer across the street from this residence was changed twice, during a relatively short period of time. According to Mr. Mort, both a meter and a transformer act as a "fuse," in that, they are supposed to shut down electrical current coming out of the meter or transformer. (Tr. 87; 88). More than five incidents of electrical elements that needed to be replaced within a relatively short period of time is indicia that the electricity coming into those elements from ComEd's side of the electrical transmission was not working in the manner that it was supposed to work.

Further, ComEd Ex. 2 was introduced to establish that the wires and connections from the pole to the Schilling residence were in good working order. However, this document has little probative value here. It was created on November 13, 2009. Yet, Ms. Schilling only contests the propriety of her electric bills from November of 2008 through March of 2009. Both Ms. Schilling and her husband testified that after May 18, 2009, everything was fine and the bills returned to normal. (Tr. 29-30; 55). This document, therefore, does not establish that the electric lines to the Schilling residence were in good working order during the relevant time period.

In summation, the Commission concludes that Ms. Schilling has met her burden of proof. Also, ComEd has failed to present credible evidence refuting Ms. Schilling's evidence. However, an issue remains as to how much the Schillings should receive in the way of a refund. As is set forth below, the amount of the credit to be awarded to the Schillings, is but an approximation, due to the fact that the allegations that Ms. Schillings proved did not establish, precisely, the amount that is due to her. It would not be possible, in this case, to prove the actual usage at the Schilling residence, due to the unusual circumstances presented here. Ms. Schilling, though, has presented evidence that provides this Commission with guidance-bills from previous years for the time period in question.

The Refund Amount

For the reasons stated above, ComEd is hereby required to credit Ms. Schilling in the amount of \$2,591.56, which represents ComEd's bills to the Schilling residence and, any late charges and interest that has accrued on this amount. ComEd shall additionally credit the Schilling account 0.5% interest on the total amount, from the dates, upon which, these bills became due and owing, to and including the date, upon which, the Commission enters this Order, including any interest or late fees. (See, *Illinois Commerce Commission, on its own Motion, Rate of Interest to be Paid on Customer Deposits*, No. 09-0607, Order of December 16, 2009; 83 Ill. Adm. Code 280.76, regarding the amount of interest that is due.).²

However, once this total amount is determined, ComEd shall deduct an amount that reflects the following from the Schilling account: \$200 per month for this five-month period in question, to reflect an approximation of what was used during the time period in question, (for a total of \$1,000) taking into account the fact that usage could have increased or varied during this period of time, as the average electric bill for this time period for 2005 to 2006 was \$150.68, and in 2006-2007, the average bill for this time period was \$182.90 per month, and, from November of 2007 through March of 2008, the average bill was \$156.94 per month. We note that an approximation of usage is necessary because, due to the unique facts stated above, it is not possible to determine exactly what amount of electricity was actually used during this time period. Also, ComEd's rates increased during this period of time. ComEd shall file a document, with

² These documents are available on the Commission's website.

these calculations, verified by someone with personal knowledge of the calculations therein, in this docket, within ten (10) days from the time when the Order in this docket is entered.

Finding and Ordering Paragraphs

- (1) the Commonwealth Edison Company is a “public utility” within the meaning defined by the Public Utilities Act;
- (2) this Commission has jurisdiction over the parties and it has subject-matter jurisdiction;
- (3) the Complainant has proven, by a preponderance of the evidence, that the electric bills that she received from November of 2008 through March of 2009 were inaccurately high;
- (4) the Complainant has proven, by a preponderance of the evidence, that the electric bills that she received from November of 2008 through March of 2009 did not reflect actual usage in her household;
- (5) the Complainant has proven, by a preponderance of the evidence, that she is entitled to a refund of the amount of the bills from November of 2008 through March of 2009, plus interest on those bills, but, minus an amount that estimates her actual usage due to power surges; as, it is not possible to determine, with certainty, what, exactly the Complainant’s electric bills would be, if there were no such surges;
- (6) the findings of fact set forth herein are supported by the evidence of record; they are hereby adopted as findings of fact;
- (7) the Commonwealth Edison Company has ten days from the date, upon which, this Order is entered by the Commission to make the calculations in the Paragraph above, entitled” Refund Amount” and file those calculations in this docket, serving all persons on the service list, including, the ALJ, with this calculation;
- (8) the Commonwealth Edison Company has ten days from the date, upon which, the Commission enters this Order, to issue a corrected bill to the Complainant (Schilling) residence reflecting the calculations in findings (5) and (7) above.

IT IS THEREFORE ORDERED that Commonwealth Edison Company has ten (10) days from the date, upon which, this Order issues to make the calculations set forth above in the Paragraph entitled: “Refund Amount” and file them in the e-docket in this matter.

IT IS FURTHER ORDERED that Commonwealth Edison Company has ten days from the date, upon which, this Order issues to issue a corrected bill to the Complainant (Schilling) residence reflecting the calculations in finding (7).

IT IS FURTHER ORDERED that this Commission retains jurisdiction over this docket in order to determine whether the Commonwealth Edison Company has properly determined and credited the amount of credit due to the Schilling residence that is set forth above;

IT IS FURTHER ORDERED that this Order is not final; it is not subject to the Administrative Review Law.

Dated: March 1, 2010
Claudia E. Sainsot
Administrative Law Judge
Illinois Commerce Commission

Briefs on Exception to be filed and served upon the parties and the ALJ (via e-mail or U.S. Mail) within 10 days of the date of this Order.

Reply Briefs on Exception, if any, to be filed and served within 10 days after the filing date of the Briefs on Exception.